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C O N F I D E N T I A L SECTION 01 OF 03 DUBAI 000334

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USTR FOR DOUG BELL

E.O. 12958: DECL: 1/24/2015
TAGS: [ELAB](#) [ETRD](#) [PHUM](#) [TC](#)
SUBJECT: UAEG OFFICIALS AND OTHERS TELL A/USTR CLATANOFF LABOR
DISPUTE PROCESS WORKS

REF: ABU DHABI 296

CLASSIFIED BY: Jason Davis, Consul General, Dubai , UAE.
REASON: 1.4 (b), (d)

¶1. (C) Summary: In a January 18 visit to Dubai, Labor A/USTR Clatanoff spent over two hours at the Ministry of Labor observing the Ministry's labor dispute process. MinFin A/US Khalid Al-Bustani told Clatanoff that labor was receiving attention "all the way to the top" of the UAEG. In a meeting with Emirati labor attorneys, Clatanoff was told that Dubai courts handle labor disputes quickly, most often siding with the employees. The Philippine Labor Attache told Clatanoff that "as an institution, the Ministry of Labor is fair." End Summary.

Labor U/S Meeting

¶2. (C) Following his meetings in Abu Dhabi (ref A), Assistant United States Trade Representative for Labor William Clatanoff, accompanied by Dubai PolEconoff (notetaker), spent January 18 in meetings in Dubai focusing on how current UAE labor laws are enforced. Clatanoff spent the morning at the Dubai branch of the Ministry of Labor, first meeting with Ministry of Labor U/S Khalid Al Khazraji and Salem Al Muhairi, Director of the MoL's International Relations Department. U/S Al Khazraji emphasized to Clatanoff that the UAE had worked with a team of ILO experts when first crafting its Labor Law of 1980, and had only amended a few articles since then. A revision to the labor law is currently being drafted; proposed changes are reported septel.

¶3. (C) U/S Al Khazraji read off a few of the MoL's labor statistics. He said that in Dubai most disputes involved unpaid wages, adding that of these unpaid salary complaints, about 60

to 70 percent were from construction workers. Al Khazraji said that the number of complaints in 2004 was actually lower than that in 2003, and pointed to this decrease as a sign of improvement. He said that while there were about 2.3 million workers under the MoL's jurisdiction, complaints were filed by only 16,400 people, UAE-wide, in 2004. (Note: The Labor Law does not cover government workers, domestic servants, or agricultural workers.) Of these complaints, around 5,600 were related to unpaid salary and 4,300 to termination of contract. MoL, he said, was able to settle most complaints in-house through mediation: about 10,000 were concluded by the MoL, as opposed to only 1,800 referred to court; another 3,500 complaints were withdrawn or settled outside of either the mediation or court process. Al Khazraji explained that most people preferred the MoL process to a court case, in part because MoL was faster than the court system.

14. (C) Al Khazraji said that of the workers who had gone on strike (i.e. stopped work en masse and filed a complaint with the MoL), around 95 percent were from the construction sector. Al Khazraji said that nothing in the law specifically forbade or authorized strikes, but that in practice the government allowed them. When a group of workers stopped work, MoL asked them to choose one representative to negotiate on their behalf.

Ministry of Labor -- Disputes and Inspections Departments

15. (SBU) While touring the Ministry and observing the dispute process first-hand, Clatanoff met with Labor Public Relations Acting Manager Jassim Al Banna. Al Banna explained the labor dispute process, noting that the complaints must be filed in Arabic and that labor complaints must be filed at the MoL before being referred to court. He said that a number of shops had been set up outside the MoL to help workers draw up their complaint, for a fee, and that at the MoL itself there were typists who would take down a worker's oral complaint. Supporting documents could be submitted in any language. After the employee or employer filed the complaint, one of the ten Legal Advisors (basically a Labor Officer) was assigned to the case. The Advisor called in both sides of the dispute (with no lawyers allowed) and gathered information such as bank receipts and other documents. While the law gives the MoL only two weeks to either resolve the dispute or refer it to court, Al Banna said that this schedule was "unrealistic" and that a month was a more reasonable timeframe. (Note: MoL said that this timeframe would be changed to 30 days in the labor law revision. End note.) The Legal Advisor reviewed the case and recommended a solution, in fact acting as a mediator. The Legal Advisor's recommendations were non-binding, and at any time in the process either party could demand that the case be turned over to the courts. When this occurred, the Legal Advisor sent his recommendation, along with the entire file, over to the Dubai Courts Department.

16. (C) Al Banna described how a foreign worker had to get a No Objection Certificate (NOC) from his/her employer if he wanted to change jobs. Workers who quit their jobs before their contract was up are subject to a six-month to one-year ban on getting a new work permit for the UAE. Clatanoff asked if, in an unfair dismissal case, the worker was required to leave the country (since his residency is contingent upon his employment) or if the MoL could let him stay in the country and perhaps even work somewhere else. Al Banna replied that the Legal Advisor first tried to persuade the company to allow the worker to be reinstated or allowed to work elsewhere, but if that failed, the worker was at least entitled to damages. If the case went to court, the worker could apply to get work permission for the duration of the case, and the employer was not able to block him from receiving it.

17. (C) Director of the Labor Inspections Department Abdulla Bin Suloom reported that his 95 inspectors checked for health and safety, "labor checking" (NFI), work permission, and investigation/follow-up. He claimed that MoL does do surprise inspections. The fine for employing a worker illegally (such as when the employer is not the sponsor of record) is 10,000 AED (2,725 USD) per worker. Bin Suloom said that the number one problem he encountered was illegal workers, who were generally

runaways from their original sponsors and working elsewhere. He said every firm with 50 or more employees needed an MoL certificate, and the MoL was required by law to inspect every company twice a year, though Bin Suloom called this "impossible."

Meeting with Khalid Al Bustani

18. (C) In a brief meeting with Khalid Al Bustani, MinFin A/US, who backs up MinState Finance Khirbash and is our principle UAEG working level FTA contact, Clatanoff emphasized that the three main labor issues were underage camel jockeys, freedom of association, and the right to organize and bargain collectively. Al Bustani explained that sometimes, from the perspective of someone from the Ministry of Interior or other security-related positions, the question is, if they have the right to association, how do you control them? As an example, Al Bustani cited UAEG concern -- given the huge Indian and Pakistani populations in the UAE (often estimated at half the population of the country) -- when tensions between India and Pakistan suddenly flared up. "We were worried here, but they (the Indian and Pakistani communities) weren't able to mobilize -- if they had organizations, they would have been able to gather," and trouble would likely have resulted. Al Bustani reassured Clatanoff that labor had a very high level of attention in the UAEG "all the way to the top. The President, the Crown Prince -- everyone is following this."

Meeting with Private Sector Labor Attorneys

19. (C) Clatanoff met with three Emirati attorneys, two of whom specialized in labor cases, in order to find out how the courts handled labor cases. The attorneys reported that they were quite happy with the courts and the way the system was working. For example, whereas normally a court fee is levied equal to 7.5 percent of the claim, for labor cases there were no fees. Moreover, they said, court cases are adjudicated quickly, especially in Dubai. While a normal court case might require four to six weeks between hearings, labor cases have only about a week gap, because they are expedited. One attorney reported that he had recently won a labor case against a sheikh, and that the court's ruling had been carried out without a hitch. The lawyers all agreed that courts generally ruled more often in favor of workers. Clatanoff asked if they had ever heard of Article 181 of the Labor Law, which provides for penalties of six months' prison and/or a fine from 3,000 to 10,000 dirham (about USD 825 to 2725), being applied to employers of underage camel jockeys. Though Article 20 bans child labor, none of the lawyers had ever heard of such a penalty being used.

Meeting with Philippine Labor Attache

110. (C) Vicente Cabe, Labor Attache at the Dubai Philippine Consulate General, said that the UAE had good labor laws, though he noted that they were not applicable to domestic servants. "And something is missing in enforcement," Cabe added. He said that there was no systematic problem in which the government sides with its own citizens, as he had seen in other countries. "As an institution, the Ministry of Labor is fair -- only certain individual employees there favor their countrymen," Cabe told us. Clatanoff pointed to Article 128 in the Labor Law, which prohibits workers from changing employers if they leave their contract without a "valid reason." Cabe said that this prohibition was applied across the board, regardless of the reason the employee left, and thought the UAE should judge these reasons on a case-by-case basis. According to Cabe, most of these problems are not large and do not need new laws. "Ministerial orders are very easy and really change things," Cabe recommended.

Comment

111. (C) A close examination of how the labor dispute process works in practice reveals that the UAEG is both doing a credible job and striving to improve. Workers who bring their disputes to the Ministry of Labor or to the courts have access to justice

and receive full due process. The main barrier to an FTA on the labor front is not the MoL or the courts, but the three issues of forced and underage employment for camel jockeys, the legal rights of organizing and bargaining collectively, and freedom of association.

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